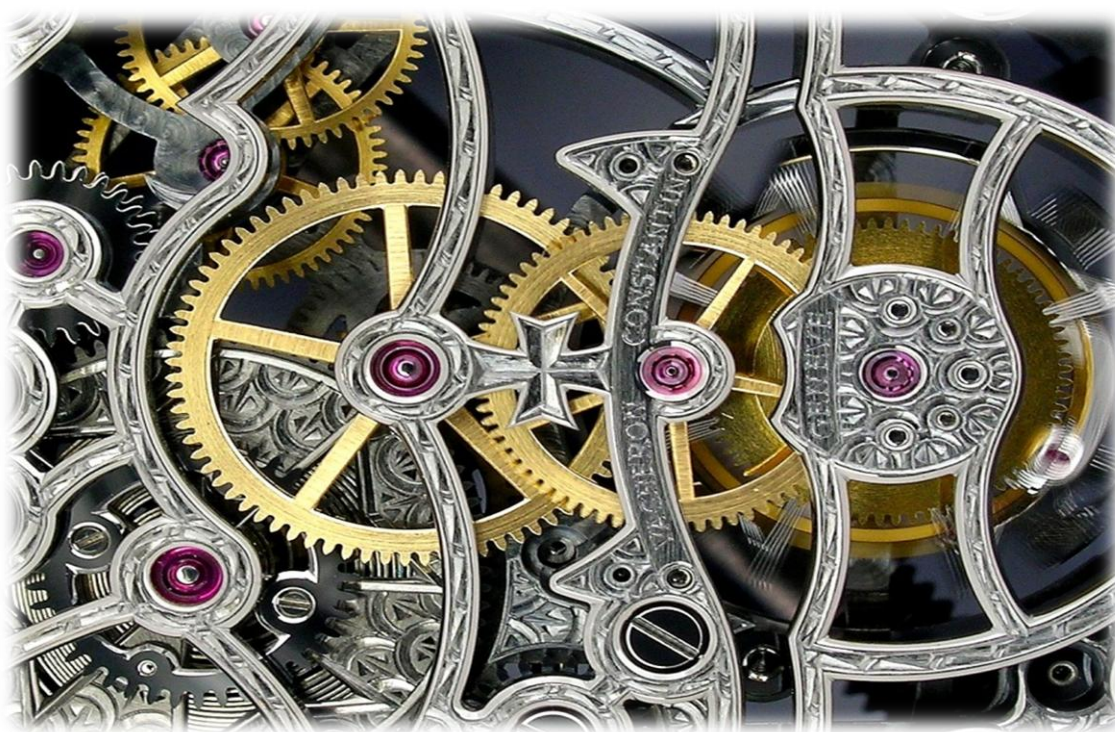


*INTERIM REPORT AND  
RECOMMENDATIONS OF THE  
ARIZONA CASE PROCESSING  
STANDARDS STEERING COMMITTEE*



*Submitted to the  
Arizona Judicial Council  
October 2013*



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## **ACKNOWLEDGMENTS**

I want to extend my sincere appreciation to the Arizona Case Processing Standards Steering Committee members for their considerable efforts in successfully addressing this challenge in a short amount of time. As a result of everyone's dedication, flexibility, and collective input, I am pleased to present this interim report and recommendations for case processing standards in Arizona.

Additionally, I want to extend my appreciation to Judge Ron Reinstein, Judge Mark Armstrong, Donna Hallam, Paul Julien, Kathy Sekardi, Kay Radwanski, Nancy Swetnam, Caroline Lutt-Owens, Chad Campbell, David Redpath, Nina Preston, Mark Meltzer, Jerry Landau and Cindy Cook, all of whom assisted in the preparation of the preliminary analysis of the rules and statutes.

We also want to remember the Honorable Sherry Geisler, Presiding Justice of the Peace, Apache County who died December 7, 2012. She was instrumental in the development of case processing standards in the Justice Civil Case Types. Judge Geisler was known for her hard work and dedication to the judiciary and was viewed as a mentor and leader in the legal community.

Justice Robert Brutinel  
Committee Chair

## INTRODUCTION

The National Center for State Courts (NCSC) published the *Model Time Standards for State Trial Courts* in 2011. These standards for the disposition of cases in the state courts were developed and adopted by the Conference of State Court Administrators, the Conference of Chief Justices, the American Bar Association House of Delegates, and the National Association for Court Managers. The model standards were designed as a tool “for use by the judicial branch of each state as a basis for establishing its own time standards . . . in communications and consultation with all key justice partners. State time standards should take into account state procedures, statutory time periods, jurisdictional conditions, demographic and geographic factors, and resources.”<sup>1</sup>

Recognizing that the *Model Time Standards* fit well within the vision of its *Justice 20/20* strategic agenda, the Arizona Judicial Branch embraced their concepts and set out to adapt them for Arizona. The Arizona case processing standards will set forth achievable goals for the courts, establish an expected timeframe within which lawyers should conduct their fact gathering, preparation and advocacy activities, and define for members of the public what can be expected of their courts.<sup>2</sup> The establishment of case processing time standards in Arizona will help the courts move toward timely justice. Implementation of time standards emphasizes the need for judicial officers and court personnel to renew focus on the movement of cases from the time of filing through disposition. The supervision of cases and maintenance of a current docket are essential if the courts want to effectively manage their cases.

On October 17, 2012, the Steering Committee on Arizona Case Processing Standards was established by Administrative Order 2012-80. The committee was charged with reviewing the national model time standards for processing all major case types in the limited and general jurisdiction courts and developing case processing standards for Arizona. The committee focused its discussions on the specific attributes of Arizona’s courts, statutes, and court rules when developing recommendations for case processing standards.

One challenge for implementing time standards in Arizona is the diverse nature of the jurisdictions the courts serve. Arizona has large urban, mid-sized, and small rural general jurisdiction (superior) and limited jurisdiction (justice and municipal) courts. Typically, the justice and municipal courts have less complex cases but a higher volume. Fewer, but more complex cases are filed in the superior courts.

The courts have no control over the number of cases filed. A larger caseload for each judge may result in cases being scheduled farther into the future, with time-to-disposition inevitably increasing. The large urban and mid-sized courts experience a higher volume of filings that require more resources. To handle the increased workload, these courts have created specialty courts (e.g., drug court) or have dedicated personnel for processing certain types of cases. On the other side of the equation, the smaller rural courts may have a lower volume of cases, but they also have fewer resources and face the challenge of handling a wide variety of cases without specialty courts or dedicated personnel.

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<sup>1</sup> *Model Time Standards for State Trial Courts*, p. 2, Richard Van Duizend, David C. Steelman, Lee Suskin, National Center for State Courts, adopted August 2011. <http://ncsc.contentdm.oclc.org/cdm/ref/collection/ctadmin/id/1836>

<sup>2</sup> *Id.*

Another challenge in meeting time standards is the way cases are distributed among judicial officers. Arizona's courts may use a combination of judges, judges *pro tempore*, commissioners, magistrates, and hearing officers. Judges generally retain the more complex cases that result in a longer time-to-disposition. Judges managing complex cases may find it more difficult to meet time standards, while other judicial officers handle the less-complicated, quickly resolved cases. Standards may work well at a court-wide level but not when applied to individual judges.

The final challenge the committee faced in the development of case processing standards was that case management systems do not have fully developed reports well-suited to the measures. Unable to rely on statistical data, the committee instead studied the rules, statutes, and business processes of the courts to try to develop realistic case processing standards for Arizona courts. The committee recognizes that courts will be unable to measure their progress and that a final determination of whether the proposed standards are realistic cannot be made until accurate time-to-disposition reports are developed.

Given the resources, caseloads and the diverse nature of courts statewide, the committee has developed standards it believes are realistic and reasonable, rather than idealistic case processing standards that are so aspirational as to be unattainable.

## **FORMATION AND COMPOSITION OF THE COMMITTEE**

Chief Justice Rebecca White Berch established the Arizona Case Processing Standards Steering Committee on October 17, 2012. The committee is comprised of leaders from the superior, municipal, and justice judiciary, a court clerk, court administrators, attorneys, and a public member.

## **WORK OF THE COMMITTEE**

The committee was charged with reviewing the national model time standards for processing all major case types in limited and general jurisdiction courts and developing case processing standards for Arizona. The committee took into account statutory requirements, court rules, court jurisdiction, and any other relevant factors when recommending state case processing standards.

To address the 19 case types the committee divided into seven workgroups based on their expertise in each case type. Each workgroup was assigned a chair, and each workgroup held meetings or exchanged e-mails on the case processing standard that was appropriate for Arizona. The workgroups focused on the rules and statutes, business practices, and statistical data that was available for some of the courts. Many of the members researched and gathered statistical data or information from their courts so a determination could be made as to how quickly cases are currently being processed. The chair of the workgroup or a member of the committee presented the preliminary recommendations to the following standing committees: Committee on Superior Court, Limited Jurisdiction Committee, Committee on Juvenile Courts, Commission on Victims in the Courts, and Committee on the Impact of Domestic Violence in the Courts.

In order to gather input and feedback from all key justice partners regarding the establishment of case processing standards for Arizona courts, the preliminary recommendations were posted on a website. A link to the website was sent to Clerks of Court, court administrators, judges, the State Bar of Arizona, and other members of the legal community with an invitation to post comments regarding the proposed case processing standards.

The workgroups reviewed the comments posted on the website and made appropriate revisions to the proposed case processing standards prior to final approval by the whole steering committee. A second draft of the proposed case processing standards was presented to the following standing committees for recommendation to the Arizona Judicial Council: Committee on Superior Court, Limited Jurisdiction Committee, Committee on Juvenile Courts, Commission on Victims in the Courts, and Committee on the Impact of Domestic Violence in the Courts. Feedback from the standing committees was incorporated into the final draft of the provisional case processing standards.

## **GUIDING PRINCIPLES**

As the dialogue about case processing standards evolved, the following principles emerged:

- Case processing standards should complement, rather than supplant, due process considerations. Waiting periods are deliberately built into some court procedures and processes in order to preserve parties' rights (e.g., to provide adequate notice, to conduct discovery, or to receive service of process). Case processing standards should not override such protections but should guide the courts in the fair and timely disposition of cases.
- The case processing standards should encourage courts to move cases forward expeditiously, reflecting the actual timeframes required for certain events statutorily mandated, existing resource limitations, and limitations contained in court rules for due process reasons. The committee is striving for incremental improvements to allow for changes in the legal culture and careful refinement of processes.
- Case processing standards are separate and distinct from statutory time limits imposed by the Arizona statutes, rules, or case law. Statutory time limits create rights for individual litigants. For example, the "speedy trial rule" in criminal cases establishes the right to a trial within a specified time, unless the time is waived.
- Case processing standards should enable courts to report the total time it takes cases to move from filing to disposition, as well as the amount of time the court has active control of the cases. Periods of time during which the court cannot move the case forward will be excluded in calculating the court's compliance with time standards.
- The case processing standards are being developed as aspirational goals and as a management tool for the courts to determine how efficiently cases are being processed through the system as a whole and to identify where improvements can be made. The committee strongly emphasizes that it would be misleading and unfair to evaluate the performance of any individual judge on the basis of these case processing standards. This is true for many reasons, including the fact that time-to-disposition reports used for case processing standards do not reflect whether a case has been assigned serially to multiple judges or how long a case has been assigned to the current judge. Likewise, in considering individual cases, the standards do not account for the complexity of the case

assigned, external factors such as the availability of the parties, or other matters beyond the control of the court.

- Case processing standards definitions and measures may differ from other mechanisms in place for statistical measures. In particular, these standards have no bearing whatsoever on the counting and calculation of judicial productivity credits that are defined by statute.
- Within each case type, a case processing standard of less than 100 percent is used. The committee recognizes that one to four percent of the cases will require more time to resolve (e.g., capital murder cases or highly complex multi-party civil cases requiring a trial). However, these cases should be monitored closely to ensure they proceed to disposition without unnecessary delay.
- Achievement of time standards requires cooperation, communication, and commitment from multiple parties and agencies involved in the justice process. The courts should seek an on-going dialogue with stakeholders to achieve a smooth implementation of case processing standards and should strongly encourage stakeholders to examine and refine current practices to achieve timely case resolution.

## SUMMARY OF PROVISIONAL STANDARDS

<b><u>CASE TYPE</u></b>	<b><u>ARIZONA STANDARD</u></b>
Superior Court Civil Cases	60% within 180 days 90% within 365 days 96% within 540 days
Justice Court Civil Cases	75% within 180 days 90% within 270 days 98% within 365 days
Justice Court Eviction Actions	98% within 10 days
Small Claims	75% within 90 days 90% within 120 days 98% within 180 days
Civil Local Ordinances	75% within 60 days 90% within 90 days 98% within 180 days
Civil Traffic	75% within 30 days 90% within 60 days 98% within 90 days
Protection Orders	<u>Ex Parte Hearing:</u> 99% within 24 hours. <u>Contested Hearing:</u> 90% within 10 days 98% within 30 days
Criminal Misdemeanor	75% within 60 days 90% within 90 days 98% within 180 days
Criminal DUI Misdemeanor	85% within 120 days 93% within 180 days
Criminal Felony	65% within 90 days 85% within 180 days 96% within 365 days
Superior Court Criminal Post Conviction Relief	94% within 180 days
Family Law Dissolution	75% within 180 days 90% within 270 days 98% within 365 days
Family Law Post-Judgment Motions	50% within 180 days 90% within 270 days 98% within 365 days



<b><u>CASE TYPE</u></b>	<b><u>ARIZONA STANDARD</u></b>
Probate Administration of Estates	50% within 360 days 75% within 540 days 95% within 720 days
Probate Guardianship/ Conservatorship	80% within 90 days 98% within 365 days
Probate Mental Health Cases	98% within 15 days
Juvenile Delinquency and Status Offense	<u>Youth in detention:</u> 75% within 30 days 90% within 45 days 98% within 75 days <u>Youth not in detention:</u> 75% within 60 days 90% within 90 days 98% within 135 days
Juvenile Neglect and Abuse	<u>Adjudication Hearing:</u> 98% within 90 days of service <u>Permanency Hearing:</u> 98% of children under 3 years of age within 180 days of removal. 98% of all other cases within 360 days of removal
Juvenile Termination of Parental Rights	90% within 120 days 98% within 180 days

## DEFINITIONS:

- **MEASUREMENT** – The number of days that will be counted during the pendency of a case to determine if the case processing standard has been met. For most case types, this is based on the time between the date on which the case is filed through the entry of the final dispositional order (e.g., a dismissal, judgment, and sentence).
- **EXCLUDED TIME** – Certain occurrences may happen that require the suspension of time and exclusion of days from the measurement. These occurrences disrupt the court's control of the case and its ability to move the case forward. Occurrences that result in excluded time are:
  - ✓ Stay for special action/appeal
  - ✓ Bankruptcy stay
  - ✓ Participation in court-ordered diversion programs
  - ✓ Warrants
  - ✓ Rule 11 mental competency proceedings
  - ✓ Stay for Servicemembers Civil Relief Act
  - ✓ Stay for conciliation (petition for 60-day stay must be filed)
  - ✓ Pending juvenile cases in family law cases
- **INTERMEDIATE TIME STANDARDS** – Standards for completing critical decision points during the life of a case but not the final disposition (e.g., temporary order for child support in a dissolution case).
- **THREE-TIER MODEL** – The case processing standards are based on a three-tier model for a majority of case types. The first tier consists of cases that are disposed of with little court involvement and typically represents a large proportion of the cases. The second tier consists of cases that are disposed of after resolution of one or two issues. The first two tiers are intended as points of measurement for effective management of pending cases. The third tier is the key to establishing a backlog measure and setting the expectation of the maximum time within which a case should be resolved. This typically includes the small percentage of cases that proceed to trial for a final resolution.

## **FINDINGS AND RECOMMENDATIONS:**

- The committee found this collaborative project to be beneficial in understanding the different processes and procedures at each court level that will affect the timely disposition of cases. Although the courts have a similar purpose, each has uniquely different operations and procedures relating to technology and case processing. Despite the independent roles of each court, an integrated global approach to addressing the implementation of case processing standards may prove to be valuable and should be continued as these recommendations are implemented and future improvement opportunities are identified.
- The NCSC developed model time standards for 15 case types in the general and limited jurisdiction courts. The case types were divided into five case categories: civil, criminal, family law, juvenile, and probate. The committee found that Arizona should develop case processing standards for 19 case types. The additional case types include justice court civil cases with a \$10,000 or lower dollar amount; justice court eviction actions; civil local ordinance cases, and driving under the influence (DUI) misdemeanor cases.
- The committee agreed that the five case categories are appropriate for Arizona, but in analyzing the cases, Arizona must also consider the jurisdictions in which cases are filed. In Arizona, a case can be filed in justice, municipal or superior court, depending on case type. The various jurisdictional levels shaped the case processing standards that were developed.
- The committee recommends that the measurement for time standards in civil and family law cases start at the time of filing, consistent with the national standards and not at the time of service on the defendant/respondent. The committee ultimately agreed that the time of filing is the most easily identifiable starting point. In Arizona, a case will be dismissed if a petition is not served within 120 days. This time was included in the count when determining the appropriate standards for Arizona.
  - Writing accurate reports for time-to-disposition and age-of-active pending cases will be difficult if the measurement starts on the date of service instead of the date of filing. The date of service is not an easily identifiable field in the case management systems. The data would have to be pulled when service returns are entered as case events.
  - Starting the measurement with date of service would result in the added complexity of cases with multiple defendants and service by publication. The case management reports currently available are written so that measurement begins at the date of filing. The date of filing is an easily identifiable field that is consistently entered by the courts.
  - It is important for the courts to control cases at the earliest stages, including the service of process step. Courts should monitor their cases to ensure that dissolution cases do not fall prey to party-caused delay in the early stages, especially when children are involved.
  - Trial courts should monitor cases to determine whether responsive pleadings have been filed within a reasonable amount of time after case initiation. In family law cases, the failure of a properly served party to respond to the petition is an indication that there are no contested issues and a default judgment should be entered.

- The national model suggests that to avoid cases lying fallow for months or even years in civil and family law cases an intermediate standard be set by each court for the filing of a responsive pleading by the defendant/respondent or the request for default judgment by the plaintiff/petitioner. This encourages courts to monitor the performance of this critical procedural step and to take action as needed. A court can take action by setting an early hearing for self-represented litigants who have not filed a return of service or sending the plaintiff/petitioner a notice that the case will be dismissed for failure to prosecute. The exercise of early court control in this fashion has been found to have a statistically significant correlation with shorter times to disposition in civil cases.
- The committee recommends that for criminal felony cases, the measurement for case processing standards start when the first charging document is filed in superior court, rather than the arraignment date.
  - In some jurisdictions, a felony case may be initiated in the justice court and then transferred to the superior court. The superior court does not have control of the case until the case has been transferred and a charging document has been filed. The justice courts have different case management systems than the superior courts, and it would be difficult to run reports and track a case between the different levels of court.
  - The national model importantly notes that the time standard for felony cases is not a “speedy trial rule” requiring dismissal of the case if the standard is not met. These standards are intended as measures of the overall time-to-disposition in a jurisdiction, not as a rule governing individual cases or creating rights for individual criminal defendants. Moreover, speedy trial rules generally run from the date of arrest or arraignment to the start of the trial. Time standards are based on the period between the date on which the case is first filed with the court to the entry of the dispositional order (e.g., a dismissal, acquittal or judgment, and sentencing).
  - In many jurisdictions, achievement of the goals set by these time standards involves more than one level of court, and the performance of an individual court must be measured against the events controlled by that court.
  - The date the charging document is filed in superior court is the simplest date to track in the case management systems. Justice courts rarely dispose of felony cases, so developing a standard for the justice courts is not crucial; however, the committee does believe the data for the felony cases that start in justice court should be collected. The AGAVE<sup>3</sup> and ICIS<sup>4</sup> case management systems track arraignment date, which is more significant in relation to speedy trial rules and the rights of the individual defendant.
- The committee recommends that for criminal misdemeanor cases, the measurement for case processing standards start with the filing of the complaint and end with disposition (e.g., dismissal, acquittal or judgment, and sentencing).

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<sup>3</sup> AGAVE is the Pima County case management system

<sup>4</sup> ICIS is the Maricopa County case management system

- The committee recommends that the case management reports developed for the criminal case processing standards track time-to-disposition based on the most severe offense listed on the first charging document filed in justice, municipal, or superior court and not the most serious offense at the time of disposition. If the most severe offense listed on the charging document is a felony, then the felony case processing standards would be apply (e.g., if a defendant is initially charged with one count of felony trafficking and two counts of misdemeanor possession and the felony charge is dismissed or reduced to a misdemeanor when disposed, the felony case processing standard would still apply).
- The committee recommends that in Arizona, for the case type of juvenile neglect and abuse, the measurement for the adjudication hearing will start on the date of “service on a parent or guardian” instead of the date of removal to keep the standards consistent with Arizona rules and statutes.
  - The national model time standards for juvenile neglect and abuse cases start the count from the date of removal on the adjudication hearing.
  - The case management systems used by Arizona’s superior courts do not currently track cases from the date of service. However, this information is captured or can be captured through event codes in the case management systems. Both parents do not have to be served for the court to proceed with the case. The reports written for the case management systems will track and start measuring on the date the first service return is filed with the court.
- The committee recommends that for the case type of juvenile neglect and abuse, the measurement for the permanency hearing will start on the date of removal to maintain consistency with Arizona rules and statutes.
  - The national model time standards for juvenile neglect and abuse cases start the count from the date of removal on the permanency hearing.
  - The case management systems used by Arizona’s superior courts do not currently track cases from the date of removal. However, this information is captured in JOLTS<sup>5</sup> or can be captured in the case management systems.
- The committee recommends that the following time be excluded from case processing time if the court does not have control of the case and must wait for some other court, agency, attorney, or person to complete an act before the court can proceed.

Excluded time includes:

- ✓ Stay for special action/appeal
- ✓ Bankruptcy stay
- ✓ Diversion programs
- ✓ Warrant

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<sup>5</sup> JOLTS is the Juvenile Online Tracking System, a statewide juvenile probation and dependency management system developed by Maricopa County Juvenile Court in 1979. It is currently installed in every juvenile court and detention center in Arizona.

- ✓ Rule 11 mental competency proceedings
- ✓ Stay granted pursuant to the Servicemembers Civil Relief Act
- ✓ Stay for conciliation (petition for 60-day stay must be filed)
- ✓ Pending juvenile cases in family law cases

- The committee recommends that the following time, having been taken into account when establishing case processing standards for Arizona, NOT be excluded from the count.

Time that is NOT excluded:

- ✓ 60-day waiting period in dissolution of marriage and legal separation cases
  - ✓ Mediation/arbitration
  - ✓ Alternative dispute resolution
  - ✓ Conciliation Court (not excluded unless 60-day stay is filed)
  - ✓ Parent education classes
- The national model for family law dissolution cases does not exclude waiting periods. The existence of a waiting period generally between 30 to 90 days should not deter a court from moving a case as far along in the process as expeditiously as possible before the waiting period concludes. However, waiting periods should be taken into account when establishing a time standard.
  - Requirements for mediation, arbitration, or parenting classes as preconditions to trial or issuance of judgment were taken into account for the model time standards.

## **CIVIL CASE CATEGORY**

### **1. Superior Court Civil Cases**

- A. The committee recommends that Arizona adopt a different standard from the national general civil model time standard:
- 60% within 180 days**, instead of 75%
  - 90% within 365 days**
  - 96% within 540 days**, instead of 98%
- ✓ Complex cases such as medical malpractice will be included as part of the 4 percent of cases disposed after 540 days.
- B. **Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)
- C. **Excluded Time:** The following may result in a stay of proceedings and the time elapsed will be excluded from measurement: special actions/appeals, bankruptcy, and stays granted pursuant to the Servicemembers Civil Relief Act.
- D. **Reasons for Different Standard:**
- The percentage was lowered by 15 percent on the first tier based on the following findings:
    - The national model combined superior court cases and justice court cases under \$10,000 in the General Civil case type standard. Arizona has various levels of court, with the superior courts run independently from the justice courts. The superior courts have different case management systems and have no control over events that occur in the justice courts.
    - The number of uncomplicated and easily resolved cases were greatly reduced with the removal of the justice court civil cases from the superior court civil case type.
    - In FY11, 59 percent of the total statewide civil cases were filed in justice court. In Arizona, a separate case processing standard is being developed for the justice court civil cases. Seventy-five percent of the cases in justice court are disposed of within 180 days.
    - Seventy-five percent of the total statewide 59 percent would be resolved in 180 days based on the justice court standard. This equates to 53 percent of the total statewide civil filings for justice and superior courts. Statewide, 47 percent of the remaining cases would require a longer disposition time. (Statewide, FY11 total civil filings equal 400,476<sup>6</sup>. Justice court civil cases were 236,184 or 59 percent. Justice court will dispose of 75 percent of the civil filings (212,566) within 180 days.

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<sup>6</sup> Arizona Annual Data Report

- Based on the FY11 example: Justice courts dispose of 212,566 or 75 percent of their cases within 180 days; superior courts dispose of 98,575 or 60 percent of their cases within 180 days. The total for the state would be 311,141 resolved within 180 days, which is 78 percent of the statewide civil caseload as compared to the 75 percent national model time standard for general civil cases.
- The percentage was lowered by two percent on the third tier based on the following findings:
  - The workgroup members stated that more than two percent of the civil cases require a trial or involve complicated evidentiary issues and four percent is a more accurate representation of the percentage of cases.

#### E. Other Findings:

- A separate case processing standard for medical malpractice cases was not developed. Timelines are included in the Arizona rules and statutes, and separate standards are unnecessary.
- Eviction actions filed in superior court are included with all other civil cases. The justice courts developed a separate case processing standard for eviction actions and this standard will not be applied to the superior court. The majority of eviction actions are handled in the justice courts and the rules and statutes for eviction actions in superior court are different.
- Rule changes were not addressed at this time but the committee recognizes that some changes may be necessary in the future
  - Rule 4 (i), ARCP,<sup>7</sup> allows the court to dismiss the complaint after 120 days for lack of service on the defendant. If the courts want to shorten the time-to-disposition, this rule may need to be amended to allow less time for service.
  - R-13-0017 Petition to Amend Arizona Rules of Civil Procedure 16, 16.1, 26, 37, 38, 38.1, 72, 73, 74 and 77 was filed this year to amend Rule 38.1, ARCP on the inactive calendar and motion to set. This amendment may affect the case processing standards.

## 2. Justice Court Civil Cases

- A. The committee recommends that Arizona adopt a faster standard than the national general civil model time standard:

**75% within 180 days**  
**90% within 270 days**, instead of 365 days  
**98% within 365 days**, instead of 540 days

- ✓ Justice court civil cases under \$10,000 will be included.
- ✓ Superior court civil cases will be excluded and will have a different standard.

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<sup>7</sup> Arizona Rules of Civil Procedure



- B. **Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)
- C. **Excluded Time:** The following may result in a stay of proceedings, and the time elapsed will be excluded from measurement: special actions/appeals, bankruptcy, and stays granted pursuant to the Servicemembers Civil Relief Act.
- D. **Reasons for Lower Standard:**
- A separate and lower standard was developed for the justice courts based on the following findings:
    - The national model combined superior court cases and justice court cases under \$10,000 in the General Civil case type standard. Arizona has various levels of court, with the superior courts run independently from the justice courts. The justice courts have different case management systems and have no control over events that occur in the superior courts.
    - Based on comments received from the judiciary, the committee recommends that 75 percent of the civil cases filed in justice courts be adjudicated within 180 days because no action can be taken by the court until the 120<sup>th</sup> day. Rule 113(i), JCRCP<sup>8</sup>, states “the action will be dismissed without prejudice if summons and complaint not served within 120 days of filing of complaint.”
    - The committee determined that 60 days is a realistic estimate of the time needed for service. The time allowed for service on the defendant is out of the court’s control, and this delay should be included in the case processing standards developed for Arizona courts.
    - If the standard remains at 75 percent within 180 days, a court will be able to grant an extension for service when it is requested and still meet the case processing standards. Many litigants are self-represented, and the courts do not want to make the parties re-file in order to meet the standard.
    - Large collection law firms are not timely filing their applications for default judgment because of their own backlog, and a 180-day standard will accommodate that delay.
    - The change made to the first tier resulted in a 90-day increase to both the second and third tiers. Even with this increase, these two tiers are still lower than the national model. The standards are reduced because the cases in justice courts rarely have any discovery issues.
- E. **Other Findings:**
- The statistical data for smaller counties may be skewed if only a couple of cases are filed and one case falls outside the standards.

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<sup>8</sup> Justice Court Rules of Civil Procedure

- If the standard for justice courts is to be lowered in the future, Rule 113(i), JCRCP, will need to be amended. The time allowed for service on the defendant is the same in both the superior and justice courts. Justice court cases are less complex and usually involve fewer defendants, so the number of days needed for service could be reduced.

### 3. ***Justice Court Eviction Actions:***

- A. The committee recommends that Arizona adopt a new standard pursuant to Arizona rules and statutes. The national model time standards include evictions in summary civil matters:

**98% within 10 days**

- ✓ Residential rental of a dwelling unit, Chapter 10: A.R.S. §33-1304; Mobile Home, Chapter 11: A.R.S. §33-1402; Rental of RV in RV Park >180 days Chapter 19: A.R.S. §33-2101; and General Landlord Tenant Chapter 3: A.R.S. §33-381 are included.
  - ✓ Commercial evictions are included.
- B. **Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)
  - C. **Excluded Time:** The following may result in a stay of proceedings, and the time elapsed will be excluded from the measurement: special action/appeals, bankruptcy, and stays granted pursuant to the Servicemembers Civil Relief Act.
  - D. **Recommendation for New Standard:**
    - The above standards apply to eviction actions in justice court only. The rules and statutes for eviction actions in superior court are different, and a small number of cases are filed in superior court.
    - The superior court will not develop a different standard. The eviction actions will be included with all other civil cases in superior court.
  - E. **Other Findings:**
    - Commercial evictions will be included in the standard. In the AJACS case management system, which is used in 13 Arizona superior courts, there are no special designations for a commercial eviction versus a residential eviction.
    - The committee noted that pursuant to 50 USC § 531, an eviction action may be stayed for a period of 90 days under the Servicemembers Civil Relief Act.

### 4. ***Small Claims Cases***

- A. The committee recommends that Arizona adopt a different standard from the national model time standards for summary civil matters:

**75% within 90 days**, instead of 60 days  
**90% within 120 days**, instead of 90 days  
**98% within 180 days**

- B. **Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)
- C. **Excluded Time:** The following may result in a stay of proceedings, and the time elapsed will be excluded from measurement: bankruptcy and stays granted pursuant to the Servicemembers Civil Relief Act.
- D. **Reasons for Different Standard:**
  - An additional 30 days was added to the first two tiers based upon the following findings:
    - Service by mail is allowed in justice court cases, and this will add approximately two weeks to the timeline.
    - In some counties, these cases are sent to mediation, which will add 30 days to the timeline. Approximately 50 percent settle in mediation.
    - Seventy-five percent of the cases do not end in default. The national model includes evictions and civil local ordinances in this case category, and they have faster dispositions.
- E. **Other Findings:**
  - Special actions/appeals were removed from excluded time. See A.R.S. § 22-504(B), which states that no appeal can be filed on a small claims case.
  - The date of filing will be used for the starting measurement instead of date of service. This encourages courts to monitor the performance of this critical procedural step and to take action, such as setting a hearing for self-represented litigants or dismissing the case after 120 days for lack of service.

## 5. *Civil Local Ordinances*

- A. The committee recommends that Arizona adopt the same standard as the national model time standards for summary civil matters:

**75% within 60 days**  
**90% within 90 days**  
**98% within 180 days**
- B. **Measurement:** Filing of initial complaint through disposition (e.g., dismissal, judgment)
- C. **Excluded Time:** The following may result in a stay of proceedings and the time elapsed will be excluded from measurement: special actions/appeals, bankruptcy, and stays granted pursuant to the Servicemembers Civil Relief Act.

**D. Other Findings:**

- Civil Local Ordinance cases will adopt their own standard and not adopt the same standard as the Civil Traffic or Small Claims case types.
- A case with zoning issues can be disposed of within the six-month timeframe. In most instances, the city or county has worked with the individuals for years before filing a lawsuit. Compliance hearings would occur after disposition and not affect the standards.

**6. Civil Traffic**

- A. The committee recommends that Arizona adopt the same standard as the national model time standard for criminal traffic and local ordinances:

**75% within 30 days**

**90% within 60 days**

**98% within 90 days**

- ✓ Civil local ordinance cases are excluded.
- ✓ Photo-radar tickets are excluded.
- ✓ Parking tickets are excluded.

- B. **Measurement:** Filing of Arizona Traffic Ticket and Complaint (ATTC) or by long-form complaint through disposition (e.g., dismissal, judgment)

- C. **Excluded Time:** The following may result in a stay of proceedings, and the time elapsed will be excluded from measurement: diversion, special actions or appeals, and stays granted pursuant to the Servicemembers Civil Relief Act.

**D. Other Findings:**

- Parking tickets are excluded from the standard because a statewide designation would be difficult. Every city or county can designate a parking ticket as something different (e.g., petty offense, civil local ordinance violation, or civil traffic).
- Photo radar tickets are excluded from the standard. There is a small percentage of photo radar cases filed and they may require additional service time.
- The committee noted the following on the civil traffic case type:
  - Civil traffic tickets are the largest category of cases in the state and 60 to 65 percent of the tickets are paid electronically.
  - There are no inherent delays in the volume of cases being processed.
  - The courts can shorten the time-to-disposition by authorizing the county clerk to provide 15, 30, or 45-day extensions to the defendant. This practice will cut down on the number of motions filed so that the defendant is allowed to complete traffic school, obtain proof of insurance, or travel from out of town.

- The courts can shorten the time-to-disposition on traffic cases by assigning some of the traffic tickets to civil hearing officers.
- Some of the counties do experience spikes in the number of filings based on holidays, tourism traffic, first snowfall, and enforcement efforts by the police department.

## ***CRIMINAL CASE CATEGORY***

### **7. *Criminal Misdemeanor***

- A. The committee recommends that Arizona adopt the same standard as the national model time standard for criminal misdemeanor:

**75% within 60 days**  
**90% within 90 days**  
**98% within 180 days**

- ✓ Criminal traffic cases are included.
  - ✓ Criminal local ordinance cases are included.
  - ✓ DUI cases are excluded; these cases have separate case processing goals.
- B. **Measurement:** Filing of complaint through disposition (e.g., dismissal, acquittal, or judgment and sentencing)
- C. **Excluded Time:** The following time will be excluded from the measurement: warrant time, Rule 11 competency issues, diversion, and special action/appeals.
- D. **Other Findings:**
- The following comment was added to the standard:  
**COMMENT:** These standards are based on the assumption that most of these cases are resolved without an attorney. These standards should be revisited if penalties on misdemeanor cases continue to become more stringent and attorney involvement increases.
  - Diversions are excluded from the measurement. To exclude the time a defendant is on diversion, the codes in the case management systems will have to be identified or created.
  - Reports developed for the case management systems will apply the case processing standards when the case is initiated, not at the time of disposition. The case processing standard for the most severe offense listed on the charging document will be applied. (e.g., if the defendant was initially charged with one count of misdemeanor possession and one count of speeding, and the misdemeanor charge is dismissed at sentencing, the misdemeanor case processing standard would still apply.) If a misdemeanor DUI is included in the original complaint, then the case processing standard for Misdemeanor DUI cases will apply.

### **8. *Criminal Misdemeanor Driving Under the Influence “DUI” Cases***

- A. The committee recommends that Arizona continue to use the existing case processing standards as follows:

**85% within 120 days**

**93% within 180 days**

- ✓ Criminal misdemeanor cases are excluded
  - ✓ Criminal traffic cases are excluded.
  - ✓ Criminal local ordinance cases are excluded.
- B. **Measurement:** Filing of complaint through disposition (e.g., dismissal, acquittal, or judgment and sentencing)
- C. **Excluded Time:** The following time will be excluded from the measurement: warrant time, Rule 11 competency issues, diversion, and special action/appeals.
- D. **Reasons for Different Standard:**
- Arizona will adopt the existing DUI case processing standards and not include DUI cases with the misdemeanor case type as proposed in the national model time standards.
  - The Arizona courts put time and effort into developing a case processing standard that is aspirational but still realistic for Arizona. The DUI misdemeanor case processing standard in Arizona exceeds the national standard for several reasons:
    - There are substantial penalties involved, and a large number of these cases go to trial.
    - The discovery process is lengthy because of expert testimony and the required technical testing and re-testing of blood and breath by the crime labs.
    - The number of offenses for driving under the influence of prescription drugs has increased, and physician testimony must be included in the discovery process.
- E. **Background:**
- The DUI Case Processing Program started in Summer 2005. Former Chief Justice Ruth V. McGregor established the DUI Case Processing Committee which conducted a detailed review of how courts throughout Arizona process DUI cases. The committee examined the entire Arizona criminal justice system as it relates to DUI cases and recommended specific improvements to court processes, rules, and statutes. The newly developed case processing standards and other recommendations designed to improve DUI case processing were successfully piloted in 11 courts. This included development of business requirements and statistical reports for the case management systems so the courts could determine where improvements needed to be made. The standards were further refined during the pilot, and in 2007, Phase II was implemented through Administrative Order

2007-94. By May 2008, all justice and municipal courts in Arizona were participating in the DUI Program, and it is still in place today.

**9. Criminal Felony**

- A. The committee recommends that Arizona adopt a different standard from the national model time standards for criminal felony:

**65% within 90 days**, instead of 75%

**85% within 180 days**, instead of 90%

**96% within 365 days**, instead of 98%

- ✓ Death penalty cases will be included as part of the four percent disposed after 365 days.

- B. **Measurement:** Filing of first charging document (e.g., information, indictment, or complaint) in superior court through disposition (e.g., dismissal, acquittal, or judgment and sentencing.)

- C. **Excluded Time:** The following time will be excluded from the measurement: warrant time, Rule 11 competency issues, diversion and special action/appeals.

**D. Reasons for Different Standard:**

- The percentage on the first tier was lowered by 10 percent based upon the following findings:
  - Based on local historical data, the percentage of uncomplicated and easily resolved cases in superior court is lower than the national standard suggests. In Arizona, counties have two levels of court. If the measurement starts with the date the first document is filed in superior court, this will eliminate all the case dispositions (e.g., dismissals or pleas) in justice court. As a result, a lower disposition rate in the first tier of cases will exist.
- The percentage on the second tier was lowered by five percent based upon the following findings:
  - Based on historical local data, 15 percent of the cases in the courts have one or two issues that require a longer timeline.
- The percentage on the third tier was lowered by two percent based upon the following findings:
  - The workgroup found that more than two percent of the felony cases are death penalty or complex cases, and four percent is a more accurate representation of the percentage of such cases.

- The workgroup determined that if the time standards are set too high, the court community will largely disregard the standards as unreasonable and make no attempt to achieve these standards.

#### E. Other Findings:

- If the first charging document or complaint is filed in a justice court for the determination of probable cause or waiver of a preliminary hearing, the measurement shall not begin until the case is transferred to superior court and the first charging document or information is filed in superior court.
- A report should be written that will track the number of felony cases filed in justice court prior to transfer to superior court.
- If the first charging document (e.g., complaint, information, or indictment) is filed directly into superior court, the measurement shall begin when the charging document is filed. If a warrant is issued, this time will be excluded from the count.
- The National Model Time Standards discourage the use of the arraignment date for establishing time standards. The national model critically notes that the time standard for felony cases is not a “speedy trial rule” requiring dismissal of the case if the standard is not met. These standards are intended as measures of the overall time-to-disposition in a jurisdiction, not as a rule governing individual cases or creating rights for individual criminal defendants. Moreover speedy trial rules generally run from the date of arrest or arraignment to the start of the trial. In many jurisdictions, achievement of the goals set by these time standards involves more than one level of court, and the performance of an individual court must be measured against the events that court controls.
- The reports written for the AJACS<sup>9</sup> case management system only contemplate tracking the filing of the first document in superior court.
- The reports developed for the case management systems should apply the case processing standard when the case is initiated, not at the time of disposition. This would be the most serious offense listed on the first charging document filed in justice, municipal, or superior court. (e.g., if the defendant was initially charged with one count felony trafficking and two counts misdemeanor possession, and the felony charge is dismissed or reduced to a misdemeanor at sentencing, the felony case processing standard would still apply).

### 10. Criminal Post-Conviction Relief

- A. The committee recommends that Arizona adopt a different standard from the national model time standards for criminal post-conviction relief:

**94% within 180 days**, instead of 98%

- ✓ Capital cases will be included as part of the six percent disposed after 180 days.

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<sup>9</sup> AJACS is the case management system for 13 of the 15 Superior Courts in Arizona



- B. **Measurement:** Filing of petition for post-conviction relief through disposition (e.g., dismissed or denied or relief granted)
- C. **Excluded Time:** No excluded time
- D. **Reasons for Different Standard:**
  - The percentage was lowered by four percent based upon the following findings:
    - In many counties, four to five percent of the cases go to trial. Capital cases will be included as part of the six percent of cases disposed after 180 days.
    - The motion for post-conviction relief following a trial takes longer to dispose of than those based on plea agreements, it requires more preparation and more testimony and evidence to be reviewed.
    - Disposition will be delayed if an evidentiary hearing is required.
    - Disposition will be delayed if there is a claim for ineffective assistance of counsel because the court must appoint counsel under Rule 32.5, Ariz.R.Crim.P.<sup>10</sup>
  - This standard will not be applied to justice and municipal courts. There are a small number of petitions filed in the justice and municipal courts, and the number of petitions that may be filed is unpredictable. The case type was re-titled “Superior Court Criminal Post-Conviction Relief.”
  - It was noted that based on the timeline created by the court rules, 180 days would not be long enough if extensions for good cause are routinely granted by the courts.
  - There is no statistical data available for the post-conviction relief case type. A new report will have to be created in the case management systems. In order to write the report, the courts will need to identify or create codes to track when the petition or motion is filed and disposed in an existing case.
  - This standard should be revisited when more data is available.

## ***FAMILY LAW CASE CATEGORY***

### ***11. Family Law Dissolution/Divorce/Allocation of Parental Responsibility Cases***

- A. The committee recommends that Arizona adopt a different standard from the national model time standards for dissolution cases:

**75% within 180 days**, instead of 120 days  
**90% within 270 days**, instead of 180 days  
**98% within 365 days**

- ✓ Includes legal separation and annulment cases.
- ✓ Excludes adoption cases.

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<sup>10</sup> Arizona Rules of Criminal Procedure

- B. **Measurement:** The date of filing to the date of disposition by entry of judgment/decreed or order.
- C. **Excluded Time:** The following may result in a stay of proceedings and the time elapsed will be excluded from measurement: special actions /appeals, bankruptcy, conciliation court, pending juvenile cases, and stays granted pursuant to the Servicemembers Civil Relief Act.
- D. **Reasons for Different Standard:**
- An additional 60 days was added to the first tier based upon the following findings:
    - The national standards were established on the premise that many cases are disposed of quickly (i.e., within 120 days) with minimal court involvement. However, due to Arizona specific rules, early disposition, by the Court, due to lack of service and/or lack of prosecution occurs after expiration of the 120-day time frame set forth in the national standards.
    - **Dismissal for lack of service.** Based on Rule 40(I), ARFLP <sup>11</sup> the court cannot dismiss the cases for lack of service until after 120 days. Moreover, the court may grant the petitioning party additional time for service. Depending on the method of service, the respondent may have up to 60 days to file an answer.
    - **Dismissal for lack of prosecution.** Based on Rule 46(B), ARFLP the court cannot dismiss the case for lack of prosecution for 180 days.
    - **Self- represented litigants.** A large proportion of dissolution cases are filed by self-represented litigants. Consequently, many parties require additional time to effectuate proper service and file the appropriate paperwork for a default judgment if service is obtained.
  - An additional 90 days was added to the second tier based upon the following findings:
    - **Conciliation, mediation and ADR referrals.** 10 to 15 percent of the cases statewide are referred to conciliation, mediation and alternative dispute resolution (ADR) programs. If a petition is promptly served, the respondent files a timely answer, and the Court sets the matter for a resolution management conference, the Court will assess the value of referring the parties to ADR, setting trial approximately 30 to 45 days after completion of the ADR. ADRs may occur 120 days or more from the date of the resolution management conference. These cases fall into the second tier and will rarely be disposed of within 180 days.
    - **Disputed Issues.** The second tier of cases will mostly include cases with strongly contested issues regarding custody/legal decision making, domestic support orders and/or division of assets and debts. Business valuations, custody evaluations, additional services such as substance abuse monitoring require additional time. Consequently, the court is unable to dispose of the cases in 180

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<sup>11</sup> Arizona Rules of Family Law Procedure

days. In addition, the second tier of cases includes a large percentage of self-represented litigants in dissolution cases and the court process is occasionally delayed when these individuals are not prepared and the required paperwork has not been completed.

- **Parent education programs.** In dissolution cases with children the timeline is extended because the parties have 45 days from the date of service to attend a parenting education class.

**E. Intermediate Standard:**

- The committee recommends that Arizona adopt an Intermediate Standard for Temporary Orders. The Arizona standard is different from the national model intermediate standard:

**90% within 60 days,  
98% within 120 days,** instead of 60 days

- ✓ Only pre-decree temporary orders are included.

**F. Intermediate Measurement:** The date the motion for temporary order is filed to the date of disposition by entry of a temporary order.

**G. Intermediate Excluded Time:** No excluded time

**H. Other Findings:**

- The issuance of a temporary order is the most important pre-trial step because it will stabilize the financial and parenting situation pending final judgment. It is important for the safety, security and well-being of the spouses and children that an order be established early on to address child support, spousal support, legal decision-making (custody) and parenting time.
- Time-to-disposition was increased in these cases but the committee still has some reservations as to whether these standards will be achievable by the courts. The findings in family law cases are often complex and lengthy.
- Because there are a large number of self-represented litigants in family court, the committee would not revise Rule 40(I), ARFLP to shorten the time when a case can be dismissed for lack of service.
- There is very little statistical data available. The reports available in AJACS and the other case management systems for dissolution cases will have to be modified and the data will need to be verified and cleaned-up.
- A new report will have to be written in the case management systems for temporary orders. In order to write the report the courts will need to identify or create codes to track when the motion is filed and disposed in an existing case.
- The standards should be revisited when more data is available.

## 12. *Family Law Post-Judgment Motions*

- A. The committee recommends that Arizona adopt a different standard from the national model time standards for family law post-judgment motions:

**50% within 180 days**, instead of 98%

**90% within 270 days**

**98% within 365 days**

- B. **Measurement:** The date of filing a post-decree or post-judgment petition to the date of disposition by entry of judgment or order.
- C. **Excluded Time:** The following may result in a stay of proceedings and the time elapsed will be excluded from measurement: pending juvenile cases and stays granted pursuant to the Servicemembers Civil Relief Act.

D. **Reasons for Different Standard:**

- The percentage was lowered and two tiers were added based upon the following findings:

- **Child support post-judgment petitions (single-issue) versus custody post-judgment petitions (multi-issue).** A significant percentage of post-decree petitions involve more than one issue. Single-issue petitions to modify child support or spousal maintenance will likely be resolved in 180 days. However, under Arizona rules, parties must obtain and serve the orders to appear for all post-decree petitions other than petitions to modify legal decision making. Under Arizona Rules, a party must comply with the requirements for Rule 91D, ARFLP for all post-decree petitions to modify legal decision-making. Due to Arizona specific service requirements, the court cannot dispose of cases for lack of service and/or lack of prosecution until after 120 days or 180 days respectively. Moreover, custody post-judgment cases take more time as various evaluations and pretrial services may be ordered.
- **Statistical data.** There was very little statistical information available on the number of post-decree motions that involve child support only versus custody. In one county 33 percent of the post-decree motions were custody and the committee believes that the percentage is more like 40 or 50 percent in the larger counties.
- **Custody Modifications.** Many of the cases that are filed as child support petitions will evolve into custody modifications. Custody modifications will take longer and will fall into the second tier for case processing standards.

- A new report will have to be written in the case management systems for post-judgment motions. In order to write the report the courts will need to identify or create codes to track when the motion is filed and disposed in an existing case.

- The standards should be revisited when more data is available.

### 13. *Protection Orders*

- A. The committee recommends that Arizona adopt a different standard for the Ex Parte Hearing (Intermediate Standard) but that Arizona adopts the same standard as the national model time standards for family law protection orders for contested hearing.

Ex Parte Hearing: (Intermediate Standard)

**99% within 24 hours**, instead of 100%

Contested Hearing:

**90% within 10 days**

**98% within 30 days**

- ✓ Injunctions Against Harassment and Injunctions Against Workplace Harassment are included.

B. **Measurement:**

Ex Parte Hearing: The date the petition for protective order is filed to the date the protective order is issued or denied.

Contested Hearing: The date the request for hearing is filed to the date the protective order is affirmed, modified or quashed.

C. **Excluded Time:** No excluded time

D. **Reasons for Standard:**

- 99 percent instead of 100 percent of ex parte hearings are to be held in compliance with state law based on the following findings:

- Rule 6(B), ARPOP<sup>12</sup> states that a judicial officer shall **expeditiously** schedule an ex parte hearing for a protective order involving a threat to personal safety... Expeditiously is not really a standard that can be measured.
- *Ex parte* hearings typically are conducted on the same day the plaintiff files the petition. At the close of the *ex parte* hearing, regardless of whether the request is granted or denied, the case is completed. However, the law allows the court to schedule a pre-issuance hearing in situations where the judge feels there is inadequate information on which to base the order and wants to hear from both parties. Statute requires pre-issuance hearings to be scheduled within 10 days with reasonable notice to the defendant.
- In some jurisdictions a case may not be resolved within 24 hours because the petitioner leaves the courthouse after filing the petition but before the hearing is held. The one percent will allow for these lapses in time. Some jurisdictions leave these cases open for a period of time so the petitioner can return and follow through.

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<sup>12</sup> Arizona Rules of Protective Order Procedure

- An intermediate standard for pre-issuance hearings was not recommended at this time. The committee may want to re-visit this issue at a later date when more data is available. The pre-issuance hearing can be ordered by the judge at any time but is often used for neighbor and roommate disputes.
- Arizona adopted the same standard as the national model time standards for family law protection orders for contested hearings based on the following findings:
  - Arizona's protective order laws are significantly different than those of most other states. First, Arizona law allows the plaintiff up to a year to have the order served on the defendant. Some orders are served immediately, others weeks or months later, and others never.
  - Second, in Arizona, there is no final hearing automatically scheduled at the time the initial order is issued. Most states require both parties to appear in court within a relatively short time (10-15 days) at which time testimony is taken and the court decides whether to keep the order in place for an extended time.
  - Under Arizona law, a second hearing occurs only if the defendant asks for one. The defendant can make this request at any time while the order is in effect. If the defendant does request a hearing, it must be conducted within 5 or 10 days, depending on whether exclusive use of the parties' residence is at issue. With this statutory timetable, Arizona courts should be able to achieve disposition of 98% of its protective order cases within 30 days unless continuances are extended beyond this time period.

**E. Other Findings:**

- In Arizona order of protection cases may be filed in justice, municipal or superior court. The majority of the order of protection cases are filed in the justice and municipal courts. These courts would not place the order of protection cases in the family law category. In order to stay consistent with the national model time standards the committee has placed orders of protection in the family law category.

## ***PROBATE CASE CATEGORY***

### ***14. Probate Administration of Estates***

- A. The committee recommends that Arizona adopt a different standard from the national model time standards for probate administration of estates:

**50% within 360 days**, instead of 75%

**75% within 540 days**, instead of 90%

**95% within 720 days**, instead of 98%

- ✓ Formal and informal probate cases are included.
- ✓ Affidavits of succession to real property cases are included.

- B. **Measurement:** Filing of an application or petition for appointment of personal representative or probate of a will through closing of the decedent's

estate (e.g., filing of closing statement, complete settlement or order approving final distribution, or accounting.)

C. **Excluded Time:** The following time will be excluded from measurement: stay for special actions, appeals, and bankruptcy.

D. **Reasons for Different Standard:**

- The percentages on all three tiers were lowered based on the following findings:
  - **Contested cases.** There are a large number of contested cases that extend the processing time.
  - **Consolidated cases.** There are a number of civil cases filed in the probate court or consolidated into a probate case, such as contract disputes, medical malpractice, nursing home malpractice and wrongful death actions that take longer to resolve.
  - **Personal representatives.** The personal representative is responsible for closing the estate. The personal representative may have to deal with some time-consuming issues, such as selling businesses and real properties, finding heirs and assets, and dealing with tax issues. These issues adversely affect the timeline.
  - **Dismissal by court.** Based on Rule 15.2(A), ARPP,<sup>13</sup> the court must wait two years and 90 days after the initiation of a case to dismiss the case when no closing statement has been filed.
  - **Statistical data.** There was very little statistical information available, but based on a survey of the courts, the percentages were lowered accordingly.

E. **Other Findings:**

- The *affidavit of succession to real property* cases are handled by the probate registrar in one to three days. According to A.R.S. § 14-1307, the presiding judge of the county can designate the clerk of court, court commissioner, or a judge as probate registrar. In most counties, the probate registrar is the clerk of court or someone employed by the clerk of court.

#### 15. ***Probate Guardianship/Conservatorship of Incapacitated Adults***

A. The committee recommends that Arizona adopt a different standard from the national model time standards for probate guardianship or conservatorship of incapacitated adults:

**80% within 90 days**, instead of 98%  
**98% within 365 days**

- ✓ Excludes guardianship or conservatorship of a minor and elder abuse cases.

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<sup>13</sup> Arizona Rules of Probate Procedure

- B. **Measurement:** Filing of petition for appointment of guardian or conservator through denial of the petition or issuance of a court order appointing fiduciary on a non-temporary basis.
- C. **Excluded Time:** No excluded time
- D. **Reasons for Different Standard:**
- The percentage was lowered and a second tier was added based on the following findings:
    - The appointment of the guardian can be accomplished within 90 days for uncontested cases. A second tier was added for contested cases.
    - Contested cases consist of cases where there is a disagreement as to whether a guardian or conservator should be appointed or a disagreement as to who should be appointed as guardian or conservator.
    - Many of the contested cases expand into issues of who is exploiting the ward.
    - There was very little statistical information. The time-to-disposition reports available in the AJACS case management system stop the measurement when the guardianship is terminated not when the order appointing fiduciary is signed. The standards were lowered based on a survey of the courts.
- E. **Other Findings:**
- **Minor Guardianship or Conservatorship Cases:** No case processing standards for Title 14 minor guardianship or conservatorship cases were developed for Arizona. The timelines are set out by rule and statute in Arizona.

#### **16. Probate Mental Health Cases**

- A. The committee recommends that Arizona adopt the same standard as the national model time standards for probate mental health cases:
- 98% within 15 days**
- ✓ Petitions for court ordered treatment are included
  - ✓ Petitions for court ordered evaluation are excluded
- B. **Measurement:** Filing of petition through disposition (e.g., patient released or issuance of a court order for treatment)
- C. **Excluded Time:** No excluded time
- D. **Other Findings:**
- A.R.S. § 36-535(B) requires that a hearing must be held within six business days after a petition for court ordered treatment is filed. The hearing can be continued for a maximum of 30 days by the patient and a maximum of three business days by the petitioner. The committee noted that the hearings on the petitions for court-ordered treatment are rarely continued.



## **JUVENILE CASE CATEGORY**

### **17. Juvenile Delinquency and Status Offense**

- A. The committee recommends that Arizona adopt a different standard than the national model time standards for juvenile delinquency and status offense.

Youth in detention:

**75% within 30 days**

**90% within 45 days**

**98% within 75 days**, instead of 90 days

Youth not in detention:

**75% within 60 days**

**90% within 90 days**

**98% within 135 days**, instead of 150 days

- B. **Measurement:** Filing of petition through disposition
- C. **Excluded Time:** The following time will be excluded from measurement: diversion, warrant time, and competency proceedings.
- D. **Reasons for Different Standard:**
- The standard for Arizona is faster than the national model based on the following finding:
    - The legal culture in Arizona for juvenile cases has been structured so that cases are resolved in a timely manner. Originally the committee stopped the measurement for the standard at the adjudication hearing and followed the timelines found in Rule 29(B), ARJP<sup>14</sup> which states the adjudication hearing will be held within 45 days if the youth is detained and 60 days if the youth is not detained.
    - The national model measures through adjudication. In Arizona the adjudication of delinquency or incorrigibility is not the final disposition.
    - The Committee on Juvenile Courts (COJC) stated that the adjudication hearing in some courts is not the final disposition. Some courts will continue the case and schedule a disposition hearing at a later date. Based on these comments, the committee recommends that Arizona measure from the filing of petition through disposition.
    - Rule 28(B)(2), ARJP states that an advisory hearing shall be held within 30 days from the date of filing if the youth is not detained and within 24 hours if the youth is detained.
    - Rule 30(B)(1)(a) and (b) states a disposition hearing will be held within 30 days of adjudication of delinquency or incorrigibility if the youth has been detained

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<sup>14</sup> Arizona Rules of Juvenile Procedure

and 45 days if the youth has not been detained. The standard is based on the above rules. The standards mirror the timelines set out in the rules.

### **18. *Juvenile Neglect and Abuse***

- A. The committee recommends that Arizona adopt the national model for adjudication hearings in juvenile neglect and abuse cases but that the measurement begins on the date of service instead of the date of removal.

The committee also recommends that Arizona adopt a different standard based on the age of the child that is faster than the national model time standards for permanency hearings in juvenile neglect and abuse cases.

Adjudication Hearing:

**98% within 90 days of service**, instead of removal

Permanency Hearing:

**98% of children under 3 years of age within 180 days/6 months of removal**

**98% of all other cases within 360 days of removal**, instead of 75% within 270 days of removal and 98% within 360 days of removal

**B. Measurement:**

Adjudication Hearing:

Date of service on a parent or guardian through a finding of dependency.

Permanency Hearing:

Date of removal through permanent plan determination.

**C. Excluded Time:** No excluded time

**D. Reasons for Different Measurement and Standard:**

- A different measurement was adopted for adjudication hearings based on Rule 55(B), ARJP which states the adjudication hearing shall be completed within 90 days of **service** of the petition.
- A different standard was adopted for permanency hearings based on the following findings:
  - The statutes and rules in Arizona are stricter than the national model and Arizona has carved out different timelines for children under three years of age.
  - Rule 60(C), ARJP sets out the timelines for the permanency hearing.

**E. Other Findings:**

- Arizona will stay consistent with the rules and statutes and start measuring the adjudication hearing from the date one of the parents is served. Both parents do not have to be served for the courts to proceed with the case.
- If only one parent has to be served to start the measurement this may be easier to track as the count may begin when the first service return is entered in the system.

- The national model time standards start the measurement for Juvenile Neglect and Abuse adjudication and permanency hearings with the date of removal. If we measure the case processing standards for the adjudication hearing from the date of removal, this would conflict with the rules and statutes in Arizona that base their timelines on the date of service.
- If a parent or guardian had to be served by publication the courts would not be able to meet the case processing standards if we start measuring from the date of removal.
- Arizona will stay consistent with the national model, the Arizona rules and statutes and start measuring the permanency hearing from the date of removal.
- The tracking of cases from the date of removal has also been identified as an issue for JOLTS<sup>15</sup> and the case management systems but, the date of removal is captured or can be captured in the case management systems.

#### ***19. Juvenile Termination of Parental Rights***

- A. The committee recommends that Arizona adopt the same standard as the national model time standards for juvenile termination of parental rights cases:

**90% within 120 days**

**98% within 180 days**

- B. **Measurement:** Filing of Motion/Petition for Termination of Parental Rights through entry of dismissal or order of termination

- C. **Excluded Time:** No excluded time

D. **Other Findings and Recommendations:**

- **Adoption Cases:** No case processing standards are to be developed for adoption cases. There are so many variables in these cases that a standard for completion could cause many unintended consequences. There are several different types of adoptions – CPS adoptions, private adoptions, step parent adoptions, relative adoptions, foreign adoptions, etc.
- **Minor Guardianship/Conservatorship Cases:** No case processing standards are to be developed for Title 8 minor guardianship/ conservatorship cases, the timelines are set out by rule and statute in Arizona.

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<sup>15</sup> JOLTS is the Juvenile Online Tracking System, a statewide juvenile probation and dependency management system developed by Maricopa County Juvenile Court in 1979. It is currently installed in every juvenile court and detention center in Arizona.

## FUTURE CONSIDERATIONS:

The committee recommends that the Administrative Office of the Courts (AOC) develop data collection procedures and statistical reports for the automated collection of data in the case management systems. In order for the courts to meet the case processing standards and make improvements where necessary, the following reports will need to be generated from the case management systems:

- Time-to-Disposition Report – CourTools Measure 3 is the number of days that will be counted during the pendency of a case to determine if the case processing standard has been met.
- Age-of-Active Pending Case Report – CourTools Measure 4 is a measure of the age of cases currently pending and awaiting disposition.

The courts do not currently have the necessary tools to retrieve all the data that will be necessary to monitor compliance with the case processing standards. The development of an accurate time-to-disposition report will enable Arizona courts to define the concept of backlog and to identify a case “in backlog” as any case older than the case processing standard. Once these cases are identified, the court can take the appropriate steps to move the case to disposition. The courts can also use these standards as a tool to manage and monitor active pending cases.

The first step in the development of statistical reports will be the establishment of case processing or business requirements for all the case types. These business requirements will be used by the courts to create the time-to-disposition and age-of-active pending case reports for all the case management systems. This will ensure that all the courts are including the same information and measuring the cases the same way. Once the business requirements are finalized, the requirements will be provided to all non-ACAP courts and the AOC can establish a time frame for implementation of reports for those courts which are supported by the AOC.

Additional steps will include the development, programming, and testing of reports and then the pilot phase of implementation. When the preliminary case management reports are released, the courts will need to validate that the data on the report is correct. If the report does not reflect the correct information the reports may need to be modified or the courts may need to enter additional codes or clean-up the data in the case management systems for the reports to display the correct information. Training on the correct entry of data into the case management system will be provided if deemed necessary.

## CONCLUSION:

The committee recommends the following steps in the development of case processing standards for Arizona: **First**, the committee is requesting an extension of its term. **Second**, the provisional set of case processing standards, measurements and excluded time included in this report will be used to develop case management reports. **Third**, the courts will validate that the reports are accurate and enter additional codes or missing data in the case management systems so the reports display the correct information. **Fourth**, the provisional set of standards will be reviewed, along with the actual data from the case management systems, so the committee can determine whether the standards are realistic. **Fifth**, based on this review, the committee will propose

realistic and reasonable case processing standards, rather than aspirational standards. **Finally**, the revised case processing standards will be presented to the Arizona Judicial Council for adoption.

The committee recommends that the provisional set of standards be valid for one year. Following the one year the committee will adopt in whole or in part these standards or extend the provisional standards in whole or in part. The committee will be provided updates on the implementation of case management reports, integrity of the data and the status of the Consolidated Case Index (CCI) throughout the year. The schedule for updates to the committee will be determined by the chair.

The committee further recommends that the preliminary case management reports remain inaccessible to the public until the data has been validated and the standards have been revisited.

The *Model Time Standards for State Trial Courts* states:

Courts that adopt model time standards, measure compliance, take steps to promote compliance, and take steps to effectively govern, organize administer and manage their court system are well positioned to request and justify the resources needed to enable the courts to hear and dispose of cases in a timely manner.<sup>16</sup>

The adoption of case processing standards is the first step toward the more efficient handling of cases by the courts. The implementation of standards in Arizona should result in the more effective use of time by judges, clerks, lawyers, public defenders, prosecutors, jail personnel and all other administrative personnel involved in the judicial system. The challenge for the Arizona judicial system is to respond constructively to them, in order to reduce costs and delay for the public. With that in mind, the standards were drafted so the system could be implemented without additional or non-judicial resources. The effective management of cases can reduce the pressure for more resources. For those courts that are processing cases in a timely and efficient manner but have reached a saturation point where additional resources are needed, the standards may be used as a justification for requesting additional state and local funding.

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<sup>16</sup> *Model Time Standards for State Trial Courts*, p. 51, Richard Van Duizend, David C. Steelman, Lee Suskin, National Center for State Courts, adopted August 2011.

APPENDIX A  
IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of:	)	
	)	
ESTABLISHMENT OF THE	)	Administrative Order
STEERING COMMITTEE ON	)	No. 2012-80
ARIZONA CASE PROCESSING	)	
STANDARDS	)	
_____	)	

Part of the vision for Arizona’s Judicial Branch, as set forth in its Justice 2020 Strategic Agenda, is to strengthen the administration of justice. Timely justice promotes public trust and confidence in the courts. The establishment of case processing time standards emphasizes the need for judicial officers and court personnel to renew focus on this essential part of their work.

Development of case processing standards for Arizona will provide a reasonable set of expectations for courts, lawyers, and for the public. The time standards serve as benchmarks for determining whether the pace of court proceedings is achievable in Arizona courts.

In 2011, the National Center for State Courts published the “Model Time Standards for State Trial Courts.” These standards for the disposition of cases in the state courts were developed and adopted by the Conference of State Court Administrators, the Conference of Chief Justices, the American Bar Association House of Delegates, and the National Association for Court Managers.

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED as follows:

1. The Steering Committee on Arizona Case Processing Standards is established.
2. **PURPOSE:** The Committee shall review the national time standards for processing all major case types in the limited and general jurisdiction courts and develop and recommend state case processing standards for Arizona. The Committee will take into account statutory requirements, court rules, court jurisdiction and any other relevant factors in recommending statewide case processing standards. The committee may also make high level recommendations for implementation of the case processing standards.
3. **MEMBERSHIP:** The membership of the Committee is attached as Appendix A. The Chief Justice may appoint additional members as may be necessary.

4. MEETINGS: All meetings shall comply with the Arizona Code of Judicial Administration § 1-202: Public Meetings. Committee meetings shall be scheduled at the discretion of the Committee Chair.
5. REPORTS: The Committee shall submit a report of its findings and recommendations to the Arizona Supreme Court for approval no later than December 2013.
6. STAFF: Under the general direction of its Administrative Director, the Administrative Office of the Courts shall provide staff to assist the Committee and, as feasible, to conduct or coordinate research and consult with external experts as requested by the Committee.

Dated this 17<sup>th</sup> day of October, 2012.

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REBECCA WHITE BERCH  
Chief Justice

**APPENDIX A**  
**MEMBERSHIP LIST**  
**STEERING COMMITTEE ON ARIZONA CASE PROCESSING STANDARDS**

*Chair*

Hon. Robert M. Brutinel  
Arizona Supreme Court

***Justice and Municipal Courts***

Hon. Jill Davis  
Mohave County, Presiding Justice of the Peace

Hon. Sherry Geisler  
Apache County, Presiding Justice of the Peace

Mr. Don Jacobson  
Flagstaff Municipal Court, Administrator

Hon. Eric Jeffery  
Phoenix Municipal Court, Assistant Presiding  
Judge

Hon. Steven McMurry  
Encanto Justice Court, Judge

Hon. Antonio Riojas  
Tucson City Court, Judge

***Public and Bar Members***

Mr. James Haas  
Maricopa County, Public Defender

Ms. Michelle Matiski  
Aetna Insurance, Head of Corporate Legal Group

Ms. Jane Nicoletti-Jones  
Coconino County Attorney's Office, Senior  
Charging Attorney

Mr. John W. Rogers  
Perkins Coie LLP, Partner

Mr. William Verdini  
Arizona State University, Professor Emeritus

***Superior Courts***

Mr. Kent Batty  
Pima Superior Court, Administrator

Hon. Peter Cahill  
Gila County Superior Court, Presiding Judge

Hon. Richard Fields  
Pima Superior Court, Judge

Hon. Pamela Frasher Gates  
Maricopa Superior Court, Judge

Hon. Kenton Jones  
Yavapai Superior Court, Judge

Hon. Sandra Markham  
Yavapai Superior Court, Clerk of Court

Hon. Mark Moran  
Coconino Superior Court, Presiding Judge  
Hon. Rosa Mroz  
Maricopa Superior Court, Judge

Hon. John Rea  
Maricopa Superior Court, Judge

Hon. Sally Simmons  
Pima Superior Court, Presiding Judge